

ORDINANCE NO. 10-3731

AN ORDINANCE OF THE CITY OF KELSO REPEALING ORDINANCE NOS. 2402, 2575, 2587, 2592, 2627, 2726, 2826, 2880, 2881, 3038, 3055, AND 3677, CODIFIED AS KMC 13.04 AND ADDING A NEW KMC 13.04, REGARDING THE CITY'S WATER SYSTEM, AS MORE PARTICULARLY DESCRIBED HEREIN.

THE CITY COUNCIL OF THE CITY OF KELSO DO ORDAIN AS FOLLOWS:

**SECTION 1.** Repealer. That Ordinance numbers 2402, 2575, 2587, 2592, 2627, 2726, 2826, 2880, 2881, 3038, 3055, and 3677, codified as KMC 13.04 are hereby repealed in their entirety.

**SECTION 2.** New Chapter Adopted. That a new chapter entitled "Water System", to be codified as KMC 13.04, is hereby adopted to provide as follows:

**Chapter 13.04  
WATER SYSTEM**

Sections:

- 13.04.010 Rules and Regulations Adopted.
- 13.04.020 Definitions.
- 13.04.030 Water Service Required—Conditions.
- 13.04.040 New Construction Connections.
- 13.04.050 Service Application.
- 13.04.060 Cross-connections.
- 13.04.070 Connection General Requirements.
- 13.04.080 Temporary Off.
- 13.04.090 Irrigation Meters.
- 13.04.100 Connections—Nonstandard and Inactive Service.
- 13.04.120 Water Main Extension.
- 13.04.140 Latecomer Agreements.
- 13.04.145 Water Mains—Capital Recovery Charges/Water System.
- 13.04.150 Private Water Systems.
- 13.04.160 Water Service Outside Corporate Limits.
- 13.04.170 Private Pipe Standards.
- 13.04.180 Plumbing Requirements.
- 13.04.190 Shut-off Valves.
- 13.04.200 Meters—Installation and ownership.
- 13.04.210 Meters—Maintenance and Repair.
- 13.04.220 Meters—Testing Procedures/Leaks.
- 13.04.225 Water and Sewer Adjustments.

13.04.230 Miscellaneous Control Devices.  
 13.04.260 Turn On—Without Permission Unlawful.  
 13.04.270 Turn Off, Turn On—Liability Disclaimer.  
 13.04.280 Driveway or Crossing Construction—Connection Removal.  
 13.04.290 Private construction work in streets and alleys.  
 13.04.300 Standby Fire Protection.  
 13.04.310 Misuse of Fire Protection Water.  
 13.04.320 Fire Protection Meters.  
 13.04.330 Hydrants—Authorized Use.  
 13.04.340 Hydrants—Temporary Use.  
 13.04.350 Billing—Private Water Systems.  
 13.04.355 Schedule of Charges.  
 13.04.360 Intentionally deleted.  
 13.04.370 Deposits—Change of Address—Delinquency.  
 13.04.380 Delinquency—Assessment of Liens.  
 13.04.390 Disconnection of Service—Condemned Building.  
 13.04.395 Discontinued Use.  
 13.04.400 Emergency Interruption of Service.  
 13.04.410 Service Calls.  
 13.04.420 Inspections.  
 13.04.430 Access for Inspection.  
 13.04.440 Tampering or Interfering with System Unlawful.  
 13.04.450 Damaging Water System—Liability.  
 13.04.460 Violation—Penalty.  
 13.04.470 Constitutionality and Saving Clause.

#### **13.04.010 Rules and Regulations Adopted.**

Unless otherwise restricted or provided for in this chapter, the rules and regulations set forth in the KELSO ENGINEERING DESIGN MANUAL, together with all KEDM's adopted State and local authorities shall be, and the same are, adopted by reference.

#### **13.04.020 Definitions.**

Except where specifically designated herein, all words used in this section shall carry their customary meanings. Words used in the present tense include the future and plural words include the singular. The word "shall" is always mandatory, and the word "may" denotes a use of discretion in making a decision. The following words or phrases shall have the meaning set forth in this section for the purposes of this chapter:

1. "Agreement" means all agreements for service installations, meters and special service made with any person, firm or corporation, or the authorized agents thereof.
2. "Applicant" means any person, firm or corporation applying for water service or any other connection to the city water system.
3. "CCF" means one hundred cubic feet, (approximately seven hundred forty-eight gallons).
4. "City" means the city of Kelso, Washington, a municipal corporation.
5. "City engineer" means the person, firm or corporation designated by contract or condition of employment as the engineer.

6. "Connection" means any physical connection to the city water system by any water service or any private water system or pipeline extension.
7. "Cost" means the cost of labor, material, transportation, supervision, engineering and all other necessary overhead expenses.
8. "Council" means the city council of the city of Kelso, Washington.
9. "County" means Cowlitz County, Washington.
10. "Cross-connection" means any connection between any part of the water system used, or intended, to supply water for drinking purposes and any source or system containing water, or substance, that is not or cannot be approved by the city prior to or after April 17, 2007.
11. "Customer" means any person, firm or corporation obtaining or using water service from the water system of the city.
12. "Fire protection service, private" means water service and facilities for building sprinkler systems, hydrants, hose reels and other facilities installed on private property for fire protection and the water available therefore.
13. "Fire protection service, public" means the service and facilities of the entire water supply storage and distribution system of the city, including the fire hydrants affixed thereto, and the water available for fire protection, excepting house service connections and appurtenances thereto.
14. Mains. Generally are a minimum inside diameter of six inches forming a grid system which two or more of the public are connected.
15. "Multiple dwelling units" means duplexes, apartment buildings, condominiums, mobile home parks, trailer courts, multiple unit commercial structures and other multiple unit structures or buildings.
16. "Person" means natural persons of either sex, associations, partnerships and corporations, whether acting by themselves or by a servant, agent or employee, the singular number to be construed to include the plural and the masculine pronoun to include the feminine.
17. "Premises" Any single piece of property to which water is provided including, but not limited to, all improvements, mobile structures and structures located on it.
18. "Private pipe" means that portion of the water line from the meter to the premises.
19. "Service charges" means fees, costs, rates and charges for water services as listed in the Current Rate Ordinance, as adopted or hereafter amended.
20. "Service, commercial" means water services to businesses engaged in the manufacture and/or sale of a commodity or commodities or the rendering of a service, multiple dwellings of four-plex or greater, hotels, motels, schools, hospitals and public office buildings.
21. "Service, industrial" means a water service to a business enterprise engaged in the manufacture of products, materials, equipment, machinery and supplies or commodities on a substantial or major scale.
22. "Service installation" means all piping and fittings from the main to and including the water meter assembly including the tail piece. All piping and fittings from the meter to the premises served shall be the customer's responsibility.
23. "Service, residential" means a water service to a single-family or duplex or triplex dwelling unit or a water service for residential irrigation.
24. "Service, temporary" means a water service and facilities rendered for construction work and other uses of limited duration and the water available therefore.

25. "System" means all water source and supply facilities, transmission lines, storage facilities, pumping plants, distribution mains and appurtenances.
26. "System, private" means a water system, or pipelines and appurtenances, pumping facilities, reservoirs, treatment facilities or any combination thereof that are owned by other than the city.
27. "Water service pipe" means that portion of the pipe which lies between the main and the water meter.

#### **13.04.030 Water Service Required—Conditions.**

A. Each residential premise shall have a separate water service or services. All water services shall be metered. Premises containing less than four residential dwelling units and/or containing more than one commercial or industrial business shall have separate metered water service for each individual dwelling unit and/or commercial or industrial unit, except where situations and/or special conditions exist that make an individual service for each unit impossible or unfeasible at the discretion of the director of public works. The director of public works shall determine when such situations or conditions prohibit individual services. All meters, meter boxes, valves, and service lines from the main to and including the meter shall be and remain the property of the City.

B. Where there is a water main in front of any premises the owner of such premises supplied by city water shall have service connection with the city main. Water shall not be supplied to any other premises, except temporarily as approved by the director of public works by written permit. If two or more residential premises are supplied by one metered service, service charges for each premises supplied with water shall be assessed for each separate building or premises so supplied. Multi-services existing as of August 19, 1986 shall be separated at such time as the owner or occupant thereof shall obtain a building permit for the remodeling or structural alteration of such premises.

C. When two or more residential premises are being serviced by one water service connection, as otherwise set forth in this section, the city shall have the right to require the installation of additional water service connections from the water main to the premises. When additional water service connections are provided for any premises, all water service shall be metered and installed in an approved manner. No premises shall be permitted to furnish water to any other premises, except during an emergency which shall not exceed a period of thirty calendar days. An application to cover the emergency connection shall be filed with the city within forty-eight hours of the occurrence causing the emergency. When the intended use of the water service is changed or the structure served is altered, a new service shall be installed at the customer's expense unless the existing service complies with the provisions of this chapter.

#### **13.04.040 New Construction Connections**

A. Applicants for new service connections within the corporate limits of the city must present a copy of the building permit for the premises where water service is being requested.

B. It shall be the duty of the Building Inspector to deliver to the Public Works Director within twenty-four hours after the same has been made, a duplicate of each application filed in the office of the Building Inspector and upon which a permit for the construction, alteration or repair of any building has been issued. Contractors may, for building purposes, make application for water by meter, and the Public Works Department shall set a meter upon such application. PROVIDED, payment be made in

advance by such contractor of the estimated established connection fees including costs of usage, setting and removing the meter.

Alternatively, any water rate payer may, if he chooses, allow the use of water through the hose connections on his premises, provided the builder shows beforehand, the written permission from the said rate payer and receipt of the payment for the water in application of a written permit from the office of the Public Works Department. Where water is allowed to be taken without said permit and receipt being first shown, the owner or occupant so permitting the water to be taken will be liable for the charges and the water may be shut off from the premises until payment is made.

C. Applicants for service outside the corporate limits of the city shall sign an agreement stating that they will not oppose annexation of the area including the premises for which service is being applied.

D. If no public sewer service is available to any premises for which application for water service is made, approval of the application shall be conditioned upon the applicant obtaining a septic tank permit from Cowlitz County Building Department, and no connection shall be made if such septic tank permit is not issued.

E. After the applicant has been approved by the director of public works, and a septic tank permit has been obtained where required, the applicant shall pay to the city at City Hall all service charges required for constructing the water service connection as provided in this chapter and as required by the Current Rate Ordinance as adopted or hereafter amended. When all service charges have been paid, the approved application shall constitute an agreement whereby the applicant agrees, as a condition for the continued use of water, to conform to rules and regulations of the department as provided in this chapter or any amendment to this chapter, and the agreement stated in the application.

F. Fees and Charges. Water connection shall be made by the city upon application to the finance department and payment of the water service installation charges as provided by city enactment. All water connection charges received shall be considered capital revenue of the city.

G. Water Service Pipe Installation Requirements. Water service pipe shall be laid and maintained in accordance with the Kelso Engineering Design Manual.

H. Installation Specifications. Water service connections may be made by the city or by a lawfully operating, licensed, bonded and insured contractor at the owner's direction and expense. All contractors must receive a permit from public works for installation of all water service connections. If the water service connections are made by the city, the cost of installation and connection shall be paid as provided in Section 13.04.050 of this chapter and shall be made in accordance with the Current Rate Ordinance, as adopted or hereafter amended or such other connection rates or charges as may be adopted. Meters shall be placed in accordance with the Kelso engineering design manual.

I. Turn Ons. When new water service connections are inspected and approved by the city for any premises, a designee of the public works director shall set the meter with the valve at the meter turned to the "off" position. The meter shall remain off until a turn on order is issued by the public works director. A turn on order shall be issued when one of the following conditions is met: (1) the building contractor establishes the proper account at the city finance department which shall be in his name only, or (2) the owner establishes the proper account at the city finance department which shall be in his name only. Thereafter, owner shall pay all costs for receipt of continued service, or (3) the final inspection is complete and occupancy has been granted.

#### **13.04.045 Connection—General Requirements.**

- A. Bills are to be prepared in even 100 cubic foot units.
- B. The water may at any time be shut off from the mains without notice, for repairs or other necessary purposes, and the city will not be responsible for any consequent damages. Water for steam boilers should not be drawn by direct pressure from the mains, but owners of boilers should always provide tanks holding an ample reserve of water for such purpose.
- C. Water will not be furnished where there are defective or leaking faucets, closets or other fixtures or where there are water closets or urinals without self-closing valves, or tanks without self-acting float valves, and when such small leaks may be discovered the supply will be turned off unless such defects are remedied within 48 hours after written notice from the Public Works Department has provided documented delivery to the occupants of the premises.
- D. No plumber or other person will be allowed to make connection with the city mains or to make alterations in any conduit pipe or other fixture connecting therewith or to connect pipes where they have been disconnected, or to turn off or turn on water on any premises without written permission from the Public Works Department.
- E. Agents of the Public Works Department shall have access at all business hours of the day to all parts of the buildings or premises in which water may be delivered from the city mains, for the purpose of inspecting the condition of the pipes and fixtures and the manner in which the water is used. Upon refusal to permit such inspection, water service may be disconnected and shall not be re-connected until such inspection is permitted and also all delinquent water rates, together with a turn-on charge is paid.
- F. Water will be shut off upon discovery from the premises where the occupants allow it to run to waste and will not be again turned on until such waste is stopped and the turn on charge has been paid.
- G. The City reserves the right to make an order forbidding all use of water for irrigation and sprinkling in event of shortage of water; due notice of such order to be given by its publication in a newspaper of general circulation in the city, and any person violating such order shall be subject to a charge as set by the Current Rate Ordinance, as adopted or hereafter amended, for each offense, and the water shall be shut off therefore. In no case shall the water be turned on for the use of such offender until such penalty shall have been paid.
- H. Consumers who are supplied by meters shall keep their premises adjacent to the meter free from all rubbish, cars, or material of any kind which will prevent the employee of the Public Works Department from having access to the meter. Violation will result in a tampering fee.
- I. Any person making unauthorized connections between the supply main and the meter will be guilty of a misdemeanor and upon conviction thereof shall be punished as for other misdemeanors as provided by law. In addition, a tampering fee will also be assessed.
- J. Plumbers or others failing to conform to the rules and regulations of the Public Works Department shall be debarred from making any connections with service pipes of the City until they have paid the City of Kelso a penalty as set by the Current Rate Ordinance, as adopted or hereafter amended, for each violation in addition to any fine imposed by the Kelso Municipal Court. The violation shall be defined as meter tampering.
- K. It shall be unlawful for any person to break, deface or damage any water meter, gate, pipe or other water works appliance or fixture or in any other manner interfere with the proper operation of any part of the water system of the City of Kelso, and anyone

found violating any of these provisions, unless otherwise provided for, shall be guilty of meter tampering and a misdemeanor, and upon conviction thereof shall be punished as for other misdemeanors as provided by law.

L. All of the rules and regulations prescribed by this chapter must be strictly complied with in every instance and the water must be paid for by all persons supplied, according to the rate ordinance, and in all instances charges shall be made and collection enforced against the tenant and owner of the premises where water connections and services are made, and the property shall be liable for the full amount of the rates and charges until paid.

M. Meter rate charges are payable subsequent to the period in which the water was consumed.

N. Wherever it has been ascertained that a retaining wall, ornamental wall or landscaped rockery or any other form of permanent structure is to be or has been erected upon any portion of a city street or public place in which a water service connection has been installed, the director of public works shall cause the relocation or readjustment of such water service connection or any portion thereof. The cost of such relocation or readjustment shall be charged against the property on which the erection of the permanent structure, as above referred to, is to be done or has been done and to the owner thereof. In no case shall the city be required to maintain or repair any portion of the service connection beyond the meter set assembly.

#### **13.04.050 Service Application / Turn On Order.**

A. Each premise shall have separate water service or services as set forth in this chapter. Any person desiring water service for any premises shall make application therefore at the Kelso City Hall. The applicant shall provide the following information:

1. Name, Mailing Address, Email Address & Phone number of Applicant;
2. Location (and tax parcel number if applicable) of Premises where water is requested;
3. Property Owners Name, Address and Email Address;
4. Signature and application date of owner or tenant of premises, the owner or tenant or their duly authorized representative or agents;
5. Date of requested Turn on;
6. Such additional information as the director of public works shall require;
7. Statement that the applicant acknowledges his or her obligation to abide by the ordinances, resolutions, rules and regulations adopted by the City that are established as conditions of use of water, and that the City has the right to shut off the water supply as required for such things as, by way of example, nonpayment, repairs, maintenance, or other necessary work;
8. Stated purpose of water use (Domestic, irrigation, construction, fire, etc.);
9. Verifiable Letter of Credit Reference for the immediate prior 24 months of continuous service from a comparable water/sewer utility provider showing no delinquencies, discontinuances or NSF checks as set forth in this section below, and if no or negative previous account history exists with Kelso, in order to qualify for a minimum deposit;
10. Valid identification;
11. Proof of ownership or rental agreement. The city reserves the right to withhold services until ownership or valid rental agreement can be verified.

B. The application provided for in Section A shall be signed by the applicant and such signature shall constitute an acknowledgement by the applicant of his or her obligation to pay for the water supplied at the rate and in the manner specified by the ordinances or resolutions of the City and to abide by the ordinances, resolutions, rules and regulations adopted by the City and that the City has a right, without liability, to shut off the water supply for nonpayment or as may be needed for repairs, maintenance or other necessary work. At the time of filing the application, the applicant shall pay to the City all required or applicable deposits, fees or charges owed to the City.

C. All applications for new service or a turn on order must be accompanied with a minimum deposit as set in the Current Rate Ordinance, as adopted or hereafter amended. In addition, the City may require an additional deposit equal to the cost of three months of estimated water service in the event the applicant cannot establish a Good Credit History. For purposes of this section, Good Credit History shall mean no outstanding balances for any utilities with the City in the last five years, or a verifiable letter of good credit reference from the prior water/sewer utility provider. Good credit shall also include (1) no more than one delinquency notice in the previous 24 months, and (2) no notice of discontinuance for nonpayment in the previous 24 months, and (3) no more than one check returned for insufficient funds within the previous 24 months. (4) No previous liens have been filed. Deposits shall be returned when (1) the use of water is discontinued and all arrearages are paid or (2) after 30 months of continuous on-time full payments. If applicant is seeking qualification for a minimum deposit, service will not be provided until references have been approved.

#### **13.04.060 Cross-Connections.**

A. Definitions. Except where specifically designated herein, all words used in this section shall carry their customary meanings. Words used in the present tense include the future and plural words include the singular. The word "shall" is always mandatory, and the word "may" denotes a use of discretion in making a decision. Any definition not found in this section will take its meaning from the WAC (Chapter 246-290 WAC), or as amended, or in the most recent edition of the Manual of Cross Connection Control published by the Foundation for Cross Connection Control and Hydraulic Research, University of Southern California.

1. "Agreement" means all agreements for service installations, meters and special service made with any person, firm or corporation, or the authorized agents thereof.
2. "Air gap" means a physical separation between the free-flowing end of a potable water supply pipeline and the overflow rim of an open or nonpressure-receiving vessel. To be an "approved air gap," the separation must be at least twice the diameter of the inlet piping (supply pipe) measured vertically, and never be less than one inch.
3. "Approved backflow prevention assembly" or "backflow assembly" or "assembly" means an assembly to counteract backpressures or prevent backsiphonage. This assembly must appear on the list of approved assemblies issued by the Washington State Department of Health. The assembly must be purchased and installed as a complete unit including two shut-off valves and test cocks.
4. "Auxiliary supply" means any water source or system other than the city of Kelso's water.



5. "Backflow" means the flow of water or other liquids, gases or solids from any source back into the distribution system. The flow of water in the opposite direction of its intended flow.
6. "Backflow assembly tester" means a person holding a valid BAT certificate issued in accordance with WAC 246-290-490 and Chapters 18.27, 18.106 and 70.119 RCW.
7. "Backpressure" shall mean backflow due to water pressure on the downstream side of the meter which exceeds the operating pressure of the public potable water supply.
8. "Backsiphonage" shall mean backflow due to a negative or reduced pressure within the public potable water supply.
9. "Building inspector" shall mean the building inspector for the city of Kelso.
10. "City" shall mean the city of Kelso.
11. "Closed system" means any water system or portion of a water system in which water is closed to atmosphere.
12. "Connection" means any physical connection to the city water system by any water service of any private water system or pipeline extension.
13. "Contamination" means the entry into or presence in a public water supply system of any substance which may be harmful to health and/or quality of the water.
14. "Council" means the city council of the city of Kelso, Washington.
15. "Cross-connection" means any physical arrangement where a public water system is connected, directly or indirectly (actual or potential), with any other nondrinkable water system or auxiliary system, wells, sewer, drain conduit, swimming pool, storage reservoir, plumbing fixture, swamp coolers, or any other device which contains, or may contain, contaminated or polluted water, sewage, used water, or other liquid of unknown or unsafe quality which may be capable of imparting contamination or pollution to the public water system as a result of backflow. Bypass arrangements, jumper connections, removable sections, swivel or changeover devices, or other temporary or permanent devices through which, or because of which, backflow may occur are considered to be cross-connections.
16. "Cross-connection specialist" or "CCS" shall mean a person holding a valid CCS certificate issued in accordance with the Washington Administrative Code who is employed by the city or under contract with the city.
17. "Degree of hazard" means the low or high hazard classification that shall be attached to all actual or potential cross-connections.
18. "Department" means the department of public works of the city.
19. "Distribution system" means all piping components of the city's system that serve to convey water from transmission mains linked to source, storage and treatment facilities to the consumer, excluding individual services.
20. "DOH" means Washington State Department of Health.
21. "Double check valve backflow prevention assembly" or "double check assembly" or "double check" or "DCVA" or "DC" means an assembly which consists of two independently operating check valves which are spring-loaded or weighted. The assembly comes complete with a shut-off valve on each side of the checks, as well as test cocks.
22. "Double check detector assembly" or "DCDA" means an assembly which consists of two independently operating check valves which are spring-loaded or weighted. The assembly comes complete with a shut-off valve on each side of the checks, as well as test cocks to test the checks for

tightness. It shall also be provided with a factory bypass arrangement with a meter and a minimum of an approved double check assembly.

23. "Health hazard" means an actual or potential threat of contamination of a physical, toxic or biological nature that would be a danger to health.
24. "In-premises protection" means a method of protecting the health of consumers served by the customer's plumbing system (i.e., located within the property lines of the customer's premises) by the installation of an approved air gap, backflow prevention assembly or device at the point of hazard.
25. "Inspector," "surveyor" or "specialist" shall mean a person holding a valid CCS certificate issued in accordance with the Washington Administrative Code, who meets the stipulations in this section and the most recent edition of the city's standard operating procedures manual.
26. "Local administrative authority" means the local official, board, department or agency authorized to administer and enforce the provisions of the Uniform Plumbing Code and all other plumbing codes recognized by the state of Washington.
27. "Low health hazard" means the classification assigned to an actual or potential cross-connection that could allow a substance that may be objectionable, but not hazardous to one's health, to backflow into the potable water supply.
28. "Mobile unit" shall mean units connecting to the water system through a hydrant, hose bib, or other appurtenance of a permanent nature that is part of the city water system or a permanent water service to a premises. Examples can include but are not limited to the following: water trucks, pesticide applicator vehicles, chemical mixing units or tanks, waste or septage hauler trucks or units, sewer cleaning equipment, carpet or steam cleaning equipment, rock quarry or asphalt/concrete batch plants, or any other mobile equipment or vessel. Uses that are excluded from this definition are recreational vehicles at assigned sites or parked in accordance with other city ordinances pertaining to recreational vehicles, and homeowner devices that are used by the property owner in accordance with other provisions of this section, or other city of Kelso ordinances pertaining to provision of water service to a premises.
29. "Person" means a natural person (individual), corporation, company, association, partnership, firm, limited liability company, joint venture company or association, and other such entity.
30. "Plumbing hazard" means an internal or plumbing-type cross-connection in a consumer's potable water system that may be either a pollutational or a contamination-type hazard. This includes, but is not limited to, cross-connections to toilets, sinks, lavatories, wash trays, domestic washing machines and lawn sprinkling systems. Plumbing-type cross-connections can be located in all types of structures including but not limited to homes, manufactured homes, apartment houses, hotels and commercial or industrial establishments.
31. "Pollutational hazard" means an actual or potential threat to the physical properties of the water system or the potability of the public or the consumer's potable water system but which would not constitute a health or system hazard, as defined. The maximum degree of intensity of pollution to which the potable water system could be degraded under this definition

would cause a nuisance or be aesthetically objectionable or could cause minor damage to the system or its appurtenances.

32. "Potable water supply" means any system of water supply intended or used for human consumption or other domestic use and meets all requirements established by the Safe Drinking Water Act and the DOH regulations.
33. "Premises" means any piece of property to which water is provided including, but not limited to, all improvements, mobile structures and structures located on it.
34. "Premises isolation" means a method of protecting a public water system by installation of an approved air gap or approved backflow prevention assembly at the point of service (end of purveyor's service pipe) to separate the customer's plumbing system from the purveyor's distribution system.
35. "Reclaimed water" means effluent derived in any part from sewage from a wastewater treatment system that has been adequately and reliably treated, so that as a result of that treatment it is suitable for beneficial use or a controlled use that would not otherwise occur, and it is no longer considered wastewater.
36. "Reduced pressure detector assembly" or "RPDA" shall mean an approved assembly consisting of two approved reduced pressure backflow assemblies, set in parallel, equipped with a meter on the bypass line to detect small amounts of water leakage or use.
37. "Reduced pressure principle backflow prevention assembly" or "reduced pressure principle assembly" or "RP assembly" shall mean an assembly containing two independently acting approved check valves together with a hydraulically operated, mechanically independent pressure differential relief valve located between the check valves. The assembly shall include properly located test cocks and tightly closing shut-off valves at each end of the assembly.
38. "SOP" means the most recent edition of the city of Kelso's standard operating procedure manual.
39. "Thermal expansion" means the pressure created by the expansion of heated water.
40. "Unapproved auxiliary water supply" means a water supply (other than the purveyor's water supply) on or available to the consumer's premises that is either not approved for human consumption by the health agency having jurisdiction or is not otherwise acceptable to the purveyor.
41. "Used water" means any water supplied by the city to a customer's property after it has passed through the service connection and is no longer under the control of the city.
42. "WAC" means the most recent edition of the Washington Administrative Code.

B. Purpose. The purpose of this section is to protect the water system of the city of Kelso from contamination or pollution due to any existing or potential cross-connections as defined in WAC 246-290-010, or as amended by this section.

C. Cross-Connections Regulated.

1. No cross-connections shall be created, installed, used or maintained within the territory served by the city, except in accordance with this section.
2. The CCS for the city shall carry out or cause surveys to be carried out to determine if any actual or potential cross-connections exist. If found

necessary, an assembly commensurate with the degree of hazard will be required to be installed at the service connection.

3. The owner, occupant or person in control of the property is responsible for all cross connection control within the premises.
4. The owner, occupant or person in control of the property shall abide by other city regulations as contained in Section 13.04.050.

D. Application and Responsibilities. This section applies throughout the city and to every premises and property served by the city water system. It applies to any premises, public or private, regardless of date of connection to the city water. Every owner, occupant and/or person in control of any concerned premises is responsible for compliance with the terms and provisions contained herein.

E. Backflow Prevention Assembly Requirements. A CCS shall determine the type of backflow assembly to be installed within the area served by the city. All assemblies shall be installed at the service connection unless it is determined by the CCS to install the assembly at an alternate location. The cross-connection shall be eliminated or an assembly shall be required to be installed in each of the following circumstances, but the CCS is in no way limited to the following circumstances:

1. The nature and extent of any activity on the premises, or the materials used in connection with any activity on the premises, or materials stored on the premises, could contaminate or pollute the potable water supply.
2. Premises having any one or more cross-connections or potential cross-connections as that term is defined in this section and the Washington Administrative Code and all applicable plumbing codes.
3. When a cross-connection survey report form is required by the city to be filled out and the city has not received it.
4. Internal cross-connections are present that are not correctable.
5. Intricate plumbing arrangements exist or plumbing subject to frequent changes is present that make it impractical to ascertain whether or not cross-connections exist.
6. There is a repeated history of cross-connections being established or re-established.
7. There is unduly restricted entry so that inspections for cross-connections cannot be made with sufficient frequency to assure that cross-connections do not exist.
8. Materials, chemicals or any substance or apparatus is being used that if backflow occurred contamination would result.
9. Installation of an approved backflow prevention assembly is deemed to be necessary in the judgment of the CCS to accomplish the purpose of these regulations.
10. Any premises having an auxiliary water supply, which is not in compliance with WAC 248-54-30 and is not acceptable to the city.
11. In the event an in-premises assembly has not been tested or repaired as required by WAC 246-290-490, or as amended, and this section.
12. If it is determined that additions or rearrangements have been made to the plumbing system without obtaining proper permits as required by the city code enforcement division.
13. All high health hazard premises, which are defined in Table 9 of WAC 246-290-490, or as amended, are required to have premises isolation by

installing a reduced pressure principle assembly in accordance with this section.

14. When a garden hose attachment is connected to the premises' plumbing, including but not limited to fertilizer applicators, pesticide applicators and radiator flush kits.
15. Where reclaimed or reused water systems are installed.
16. Premises on which any substance is handled under pressure so as to permit entry into the public water system.

F. Irrigation Systems. All irrigation systems shall be protected in accordance with the plumbing code. In the event any system is equipped with an injector system, or has submerged heads, a reduced pressure principle assembly will be required.

G. Fire Systems. An approved double check detector backflow prevention assembly shall be the minimum protection on all new fire sprinkler systems using piping material that is not approved for potable water use, and/or that does not provide for periodic flow-through. A reduced pressure principle detector backflow prevention assembly must be installed, if any solution other than the potable water can be introduced into the sprinkler system. Retrofitting on fire sprinkler systems will be required in each of the following circumstances:

1. Where improper maintenance has occurred;
2. On all high hazard systems;
3. Wherever a CCS deems necessary; and
4. Wherever required by the WAC.

H. Temporary Meters and Hydrant Valves. Backflow protection will be required on temporary meters and all hydrant valves. The type of assembly will be commensurate with the degree of hazard and will be determined on a case-by-case basis by the city's CCS.

I. Mobile Units. Any mobile unit or apparatus as defined in subsection A of this section which uses the city's water from any premises or piping within the distribution system shall first obtain a water use permit from the city. The mobile unit will be inspected to assure appropriate backflow protection is installed in accordance with the city's most recent edition of the SOP manual.

J. Right-of-Way Encroachment.

1. No person shall install or maintain a backflow prevention assembly upon or within any city right-of-way except as provided in this section.
2. A backflow prevention assembly required by the city may be installed upon or within any city right-of-way only if the owner proves to the city that there is no other feasible location for installing the assembly, and installing it in the right-of-way will not interfere with traffic or utilities. The city retains the right to approve the location, height, depth, enclosure, and other requisites of the assembly prior to its installation.
3. All permits required by the city code to perform work in the right-of-way shall be obtained.
4. A property owner shall, at the request of the city and at the owner's expense, relocate a backflow prevention assembly which encroaches upon any city right-of-way, when such relocation is necessary for street or utility construction or repairs for purposes of public safety.

K. Plumbing Code. As a condition of water service, customers shall install, maintain, and operate their piping and plumbing systems in accordance with all Washington State Plumbing Codes.

L. Access to Premises. Authorized employees of the city, with proper identification, shall have access during the hours of 8:00 a.m. to 5:00 p.m. to all parts of commercial, industrial and residential premises and within the buildings to which water is supplied. If access to the premises or to the interior of a structure during these hours is denied, a reduced pressure principle assembly shall be required to be installed at the service connection to that premises.

M. Testing and Repairs. Backflow prevention assemblies shall be tested and repaired in accordance with the requirements set out in the WAC, this section and the most recent edition of the city's SOP manual.

N. Responsibilities of Backflow Prevention Assembly Testers. All backflow assembly testers operating within the city shall be certified in accordance with all applicable regulations and shall comply with all stipulations in this section and the most recent edition of the city's SOP manual.

O. Maintenance of Assemblies. Backflow prevention assemblies shall be maintained in accordance with the requirements set out in the WAC, or as amended, and the most recent edition of the city's SOP manual.

P. Installation Requirements and Specifications. Backflow prevention assemblies shall be installed in accordance with the requirements set out in the WAC and the most recent edition of the city's SOP manual. In the event the CCS allows premises isolation assembly to be installed at an alternate location, there shall be no connections between the meter and the premises isolation assembly.

Q. Thermal Expansion. If a closed system has been created by the installation of a backflow prevention assembly, it is the responsibility of the property owner to eliminate the possibility of thermal expansion.

R. Pressure Loss. Any reduction in water pressure caused by the installation of a backflow assembly is not the responsibility of the city. The city will give reasonable assistance to the owner regarding information on adequate sizing of assemblies and proper plumbing practices to provide for required pressure and flows for fire protection.

S. Parallel Installation. Premises where non-interruption of water supply is critical shall have two assemblies of the same type installed in parallel. They shall be sized in such a manner that either assembly will provide the minimum water requirements while the two together will provide the maximum water requirements.

T. New Construction.

1. On all new nonresidential construction, an approved backflow assembly shall be installed at the service connection. The type of the assembly will be commensurate with the degree of hazard as determined by a CCS.
2. When a building is constructed on commercial premises, and the end use of the building is not determined or could change, a reduced pressure principle backflow prevention assembly shall be installed at the service connection to provide protection of the public water supply in the event of the most hazardous use of the building.

U. Residential Service Connections. Any residential property, which has been determined to have an actual or potential cross-connection and/or has violated the plumbing code or this section in any way, shall be required to install an approved backflow prevention assembly in accordance with this section.

V. Rental Properties. The property owner is responsible for the installation, testing and repair of all backflow assemblies on their property. When the tenants change, or if the plumbing is altered in any way, it is the responsibility of the owner to notify the city.

W. Retrofitting. Retrofitting shall be required on all service connections where an actual or potential cross-connection exists, and wherever else the city deems retrofitting necessary.

X. Costs of Compliance. All costs associated with the purchase, installation, inspections, testing, replacement, maintenance, parts, and repairs of the backflow assembly are the financial responsibility of the property owner. All cost associated with any disconnect fees associated with the enforcement of this document are the sole responsibility of the water user and/or property owner.

Y. Recovery of Costs. Any water customer violating any of the provisions of this section and who causes damage to or impairs the city's water system, including, but not limited to, allowing contamination, pollution, any other solution or used water to enter the city's water system, shall be liable to the city for any expense, loss or damage caused by such violation. The city shall collect from the violator for the cost incurred by the city for any cleaning, purifying, repair or replacement work or any other expenses caused by the violation. Refusal to pay the assessed costs shall constitute a violation of this section and shall result in the termination of service.

Z. Emergency Suspension of Service. The public works director or their designee may, without prior notice, suspend water service to any premises when such suspension is necessary to stop the imminent threat of any actual or potential cross-connection as defined in this section and the most recent edition of the city's SOP manual.

AA. Non-emergency Suspension of Service. The public works director or their designee may suspend, with twenty-four hours' notice, the water supply to any premises where the conditions of this section or the most recent edition of the city's SOP manual have been violated.

BB. Penalties. Any person, property owner, firm, corporation or business entity violating (1) this section, or (2) any regulation, rule or permit of the city issued pursuant to this section shall be liable to the city for civil penalty. The amount of such civil penalty shall be two thousand dollars per violation. Each continuing day's violation under this section shall constitute a separate offense. The penal provisions imposed under this section shall not preclude the city from filing suit to enjoin the violation. The city of Kelso retains all legal rights and remedies available to it pursuant to local, state and federal law.

CC. Falsifying Information. Any person who knowingly makes any false statement, representation, record, report or other document filed or required to be maintained pursuant to this section, or who falsifies, tampers with, or knowingly renders inaccurate any backflow assembly, device or method required under this section shall (in addition to civil and/or criminal penalties provided by state law) be guilty of a misdemeanor subject to the general penalty clause of the Kelso Municipal Code.

#### **13.04.080 Temporary Off.**

The city shall assess service charges as long as the water service is in an active status. a customer may request that water service be turned off temporarily for periods longer than 30 consecutive days. A temporary off shall not exceed one year. Accounts not in use for one year or more shall be finaled retroactive to the first day of inactivation. Accounts off for a year or more must comply with all Kelso municipal code requirements for a nonstandard and inactive service. An "in person" signed application is required to initiate a temporary on and a subsequent activation of service. A service call fee will be

assessed for the temporary cessation and reconnection of service as set forth in the current rate ordinance. Temporary off customers shall provide an advance payment for current charges and a forwarding address for billing to qualify as such.

#### **13.04.090 Irrigation Meters.**

An irrigation meter may be installed to verify quantities of water used that will not return to the sewer system. Irrigation only meter accounts will not be charged a monthly sewer use fee. If approved by the public works director, irrigation meters may also be set as deduct meters where appropriate. Deduct meters will not pay SDC fees, but all other connection fees and standards apply. Independent irrigation meters will pay water SDC fees but not sewer SDC fees and all other connection fees and standards apply.

#### **13.04.100 Connections—Nonstandard and Inactive Service.**

When a service has been in regular use and has been turned off or has been inactive for one year or more, it shall be determined as an inactive service, and, if the existing inactive service is nonstandard and it is physically possible to standardize the installation in accordance with Section 13.04.040 of this chapter, the applicant for service shall pay for a new service as provided. When any service which has been in regular use is turned off and attains a period of inactivity for two years or more, it shall be subject to disconnection and removal at the discretion of the director of public works.

#### **13.04.120 Water Main Extension.**

Water main extensions shall be in accordance with the Kelso Engineering Design Manual.

#### **13.04.140 Latecomer Agreements.**

A. **Purpose and Term.** Any property owner utilizing private funds to install public water system improvements may apply to the city to establish a latecomer agreement for recovery of a prorated share of the cost of constructing the public improvement from other properties that will later derive a benefit from the improvements. No latecomers' agreement shall extend for a period longer than 15 years from the date of final acceptance by the city unless a longer period is allowed pursuant to RCW 35.91.020.

B. **Rights and nonliability of city.** The city reserves the right to refuse to enter into any latecomer agreement or to reject any application therefore. All applications for latecomers' agreements shall be made on the basis that the applicant releases and waives any claims for any liability of the city in establishment and enforcement of latecomer agreements. The city shall not be responsible for locating any beneficiary or survivor entitled to benefits by or through latecomer agreements.

C. **Application requirements.** All applications for latecomer agreements shall be on forms established by the public works director and approved as to form by the city attorney. The application shall contain the following information:

1. Legal description of the property and of each of the benefited properties.
2. Vicinity maps showing the property, the benefited properties and the location of the proposed improvement.
3. Estimated cost data.



4. Proposed pro rata share of the cost of the improvement to be borne by the benefiting properties and the proposed method of assessment of the pro rata share.
5. Payment of application fee.

**D. Eligibility of applicants.** In order to be eligible for processing of latecomer agreements, applicants for latecomer agreements shall be in compliance with all city ordinances, rules, and regulations.

**E. Procedures for reimbursement agreements.**

1. If a reimbursement agreement is requested, the property owner shall submit project plans and a site plan, map or diagram of the proposed benefited area prepared by a licensed professional engineer, ownership reports on properties within the proposed benefited areas, a cost estimate for the project based upon the plans of a civil engineer from which reimbursable costs shall be estimated, and such other information as the city may require.
2. Property owners requesting a reimbursement agreement shall submit, along with the application, a nonrefundable payment in the amount established in the current rate ordinance as adopted or hereafter amended to be applied to the city's legal, engineering and administrative costs (including but not limited to staff time, and costs for title reports, appraisers, or other costs) associated with preparing the reimbursement agreement, which costs shall be included as reimbursable costs in the reimbursement agreement; provided, that whenever city engineering, legal, and administrative costs exceed the payment required herein, the city shall not process the application or execute any agreement until such costs have been paid in full.
3. The public works director, based on information submitted by the property owner will formulate an assessment reimbursement area (benefit area) based upon a determination of which parcels did not contribute to the original cost of such infrastructure improvement and which connect to or specially benefit from such infrastructure.
4. The public works director based on information submitted by the owner will estimate pro rata share of costs. The public works director may require engineering costs or construction bids to be provided and may retain an appraiser to assist in formulating the benefit area and pro rata costs.
5. The public works director shall make a preliminary determination of the benefit area and assessments and shall notify the property owners within the proposed benefit area by first class mail of the benefit area, the approximate assessment, and a description of the property owners' rights and options to participate in the agreement. The property owners may, upon payment of an appeal fee established in the Current Rate ordinance as adopted or hereafter amended, appeal the preliminary determination to the City Council within twenty (20) days of the date of mailing. The City Council may delegate the hearing examiner to hold the public hearing, establish the record and make a recommendation to the City Council.
6. Upon completion of the preliminary determination, and appeal there from, if any, the City shall prepare the final latecomers agreement for public hearing and consideration by council and shall notify the property owners within the proposed benefit area by first class mail of the hearing date.

7. Upon approval by City Council, the latecomer agreements must be recorded in the County auditor's office within 30 days of the final execution of the agreement. It shall be the sole responsibility of the latecomer applicant to record said agreement. Once recorded, the latecomer agreement shall be binding on owners of record within the assessment area who are not party to the agreement.

**F. Construction.** After the Latecomers' Agreement has been signed by both parties and all necessary permits and approvals have been obtained, the applicant shall construct the system improvements and upon completion obtain final inspection and acceptance of the improvement by the city.

**G. Illegal connection.** No person or entity shall be granted a permit or be authorized to connect to the water system improvements during the time set forth in the recorded latecomer agreement without first paying to the city, in addition to any and all other costs and charges assessed for such connection, the amount required by the latecomer agreement. Whenever any connection is made without such payment having first been made, the city may remove, or cause to be removed such unauthorized connection and all connecting pipe located in the right of way and dispose of the unauthorized material without any liability.

**H. City Ownership.** All water system improvements constructed by the property owner and to be subject to the latecomer agreement must be dedicated to and owned by the City.

#### **13.04.145 Water Mains—Capital Recovery Charges/Water System.**

**A.** Property within the city's water utility service area not previously assessed for water system improvements making service available to their property, whenever such improvements are being constructed as an extension of service through an undeveloped area or as a replacement due to obsolescence, inadequacy or deterioration, shall pay a capital recovery charge as a condition to connection to the city's water system. The capital recovery charge shall be determined by a method conforming to the criteria set forth in RCW 35.92.025. Said charges shall be reviewed annually and incorporated into an ordinance, together with any other adjustments made in charges connected to the water system. Such capital recovery charge shall be in addition to any and all connection charges provided for such service by the current rate ordinance as adopted or hereafter amended.

**B. Payment of Capital Recovery Charge.** Whenever provision is made throughout this chapter for the payment by any property owner of a capital recovery charge for water system improvements, such capital recovery charge may be paid in cash or in annual installments over a five-year period from the date of connection. If any property owner elects to make payments on said annual basis, he shall execute a contract in such form as shall be prescribed by the city council, which contract shall contain the provision that any unpaid balance may be paid in full on the date of any annual payment and the further provision that interest shall be paid on the deferred balances at the rate of ten percent per year. The specific terms of the contract shall be approved by the city manager. Such contracts shall be made a covenant running with the land and shall provide that the unpaid balances shall be a lien upon the property to which such connection is made, superior to all other liens and encumbrances except those for general taxes and special assessments, which may be foreclosed in the same manner provided by law for the foreclosure of delinquent local improvement district liens. The contract shall be recorded in the office of the county auditor at the expense of the

property owner and upon payment in full, a release of the said lien shall be executed by the city manager and attested by the city clerk. Such contract shall further provide that in the event of delinquency in the payment of any instrument there under, the public works director, or his employees, may disconnect the city's water service from and refuse to supply water to the premises in default until said delinquent payments are paid in full. This remedy to be concurrent with and in addition to the city's right to foreclosure said lien as herein provided.

**C. Appeals.**

1. In the event a person disputes the assessment which city staff proposes to impose as a condition to connecting to the city's water facilities, the aggrieved party may appeal such proposed assessment to the city council, provided written notice of appeal is filed with the city clerk no more than fourteen days from the date of notification of such proposed assessment.
2. The scope of such appeal shall be limited to questions of calculation of the proposed assessment at the rates set forth within the current rate ordinance as adopted or hereafter amended. The rates shall not be subject to review upon appeal, nor may assessments be waived by the city council in conjunction with any such appeal.

**13.04.150 Private Water Systems.**

The city shall not operate and maintain private water distribution mains inside or outside the corporate limits of the city in conjunction with its own facilities. All private water systems existing in conjunction with city facilities shall be equipped with an approved check meter at the expense of the private water system and the readings of such check meter shall be compared to readings of individual meters served by the private system to detect any discrepancies in water usage. All costs over and above those resulting from the water usage of customers on the private water system shall be borne by the owner and operator of the private water system.

**13.04.160 Water Service Outside Corporate Limits.**

All rules and regulations referring to the management of the city water system effective inside the corporate limits of the city shall apply equally outside the corporate limits except as otherwise specifically set forth in this chapter.

A. The term "water district" as used in this Chapter means where water is supplied through one metered service to several houses, families or persons without the corporate limits of the City of Kelso.

B. All provisions of this Chapter, regulating the sale and use of water within the corporate limits of the City not inconsistent with provisions following, shall govern the users of water without the corporate limits of the City.

C. The charge for a meter service outside of the City limits, up to a distance of twenty feet from the main, exclusive of the cost of replacing asphalt or cement pavement, shall be as set in the Current Rate Ordinance, as adopted or hereafter amended, if the service is more than twenty feet from the main the additional charge for such service shall be the actual materials, labor, equipment rental and overhead added to the basic cost together with the cost of replacing any pavement the cutting of which was necessary to install such service. A deposit based on an estimated cost of installing the service shall be made at the time of the application. The charge for services for installation of pipes larger than an inch shall be the cost of actual materials, labor,

equipment rental and overhead. A deposit based on an estimated cost of installing the service shall be made at the time of the application.

D. Minimum monthly charge for water supplied to water districts shall be that charge agreed upon in a contract approved by the City Council or shall be as established in the Current Rate Ordinance, as adopted or hereafter amended, for each occupied dwelling house within such water district. All water passing through the meter of such water district per month for each occupied dwelling shall be paid for by said water district at the rate of one and one-half times the rate charged for domestic consumption of water within the limits of the City of Kelso.

E. Application for formation of water districts shall be made to the City Council and may be granted under such terms and restrictions as shall from time to time be promulgated by that body. The City reserves the right to terminate all water districts and place same upon the schedule provided for in the Current Rate Ordinance as adopted or hereafter amended. All sums due the City for water sold to water districts must be paid as one payment or item by such party or parties as shall be designated by the members of such water district and upon failure to pay all such sums due the City therefore within the time prescribed for the payment of water rental within the City, the Public Works Director shall discontinue water service and shall make a charge as set by ordinance for the turning on of such water. All controversies arising among members of water districts must be settled by such members and the Public Works Director. The Public Works Director may refuse to furnish such district with water until such controversies are settled and the provisions of this chapter are complied with.

F. The minimum charge for water supplied to patrons without the City and not within a water district shall be set by the Current Rate Ordinance as adopted or hereafter amended. All water used shall be charged at one and one-half times the rate charged within the city limits.

#### **13.04.170 Private Pipe Standards.**

All persons connecting to city service or laying their own private pipe shall be required to use pipe meeting KEDM Standards and as approved in the City of Kelso Right of Way Permit. In all permanent sprinkler systems or other systems where contamination or cross-connections are possible, an approved backflow prevention device shall be installed. Public works shall maintain private services from city mains in improved City streets and shall have access on private property as shall be necessary to maintain such pipes during the work. Except for the above cause, owners shall maintain their private pipes from the end of the city's service to and into their property, or, in the event the director of public works finds it necessary to maintain the same, the owner shall relinquish all right in such pipes. When necessary, the city may re-lay service on property to conform to the slope occasioned by the grading of the street and charge the expense thereof to the owner of the service.

#### **13.04.180 Plumbing Requirements.**

All persons installing fixtures or appliances to be supplied with water from the city main shall be subject to the requirements of the Uniform Plumbing Code. Persons installing plumbing in new structures shall leave the valve at the meter in the "off" position upon completion of their work. Persons making additions or repairs to existing plumbing systems shall leave the valve at the meter in the position in which it was found in beginning their work. The Public Works Director shall have the right to refuse service or

discontinue service in any situation where it is discovered that applicable city standards have not been complied with making the installation.

#### **13.04.190 Shut-off Valves.**

Shut-off valves of approved full flow pattern with key or hand wheel shall be installed between the water service pipe leading from the city meter to the building within the premises served in accordance with the applicable plumbing code. Shutoff valves, where buried, shall be properly enclosed in a minimum six-inch diameter pipe, or box, of concrete, plastic or iron with an approved cover, protected from freezing and readily accessible. Valves or customer owned equipment are not permitted to be installed within the city's meter box. No outlet shall be connected to the service extension pipe between the city meter and the customer shut-off valve.

#### **13.04.200 Meters—Installation and Ownership.**

All one-inch diameter meters or less shall be provided as per Kelso fee ordinance and installed by the city on water service connections and shall remain the property of the city. All meters larger than one-inch shall be provided of an approved make and model and provided, installed and tested by the applicant.

#### **13.04.210 Meters—Maintenance and Repair.**

A. The city shall maintain and repair all service meters and replace meters periodically when necessary if rendered unserviceable by ordinary use. Where replacement or repair to any meter is necessary by reason of the neglect, carelessness or willful act of the owner or occupant of the premises served, all expenses of such replacement or repair incurred by the city shall be borne by the owner of the premises.

B. Whenever demand periodically exceeds the rated capacity of a meter to the extent that flow is inaccurately measured or the meter may be damaged, the city shall notify the owner. After evaluating the owner's requirements, the public works department shall advise the owner what meter size and fee requirements are necessary to give proper service without damage to the meter, and the estimate of the cost and fees to change such meter. If the owner does not pay the estimate of the cost to change such meter within thirty days after the date he is so advised by the public works department, then the city shall install the proper size meter and charge the full cost thereof the owner, or at its option, the city may terminate the water service. The failure of the owner to pay the cost to change the meter after the installation of a larger meter by the city within ninety (90) days of the date of the billing for the same, such cost shall become a lien against the premises pursuant to Section 13.04.380 of this chapter.

#### **13.04.220 Meters—Testing Procedures/Leaks.**

A. When any consumer whose water service is metered shall make a complaint that the bill for any past time has been excessive, the Public Works Department will, upon written request, have such meter re-read and inform the customer how to perform a 2-hr leak test. Should such consumer then desire that the meter be tested, said consumer shall make a deposit with the Public Works Department as set in the Current Rate Ordinance, as adopted or hereafter amended, before such test shall be made. The consumer shall have the privilege if he or she so desires to be present when such tests are made. In case a test should show an error of over three percent of water consumed

in favor of the Public Works Department, the deposit will be refunded to the consumer, a correct registering meter will be installed and the bill will be adjusted accordingly. If the test of such meter should show an accurate measurement of water or should show an error in favor of consumer, the amount deposited will be retained by the Public Works Department to cover part of the expense of making such test. Without a meter test, no leak adjustments will be provided for a meter error.

#### **13.04.225 Water and Sewer Adjustments.**

A. No leak adjustment will be provided unless the billing is at least double the normal calculated average. Customers are expected to be responsible to inspect and protect their own water systems for compromises caused from age, freezing weather or worn out fixtures. There will be no water leak adjustments for these causes.

B. When more than one leak adjustment is requested within a 24 month period, a professional written report documenting and positively affirming the integrity of the owner's water system will be required prior to considering additional requests.

C. There will be no water or sewer adjustments for irrigation or visible inside fixture maintenance leaks.

D. Where water adjustments are provided, all metered water used over the normal calculated average use must be billed the pumping fee as established by the Current Rate Ordinance, as adopted or hereafter amended, in lieu of the normal consumption rates.

E. Flat rate sewer charges will not be eligible for leak adjustments.

F. The Maximum adjustment period shall be one billing cycle.

G. Water/Sewer charge adjustments for water leaks may be allowed where sufficient documented evidence is presented to the City to show that water registering on the meter was not consumed for domestic purposes but was due to eligible leaks or damage on customer's side of the meter, which has been repaired and approved by the Public Works Director or his designee.

H. Sewer charges exceeding the flat base amount may be adjusted by estimating the quantity of wastewater not entering sewer system.

I. All other adjustments shall be determined on a case-by-case basis by the Public Works Director. A utility customer who suffers a monetary loss for water or sewer services without fault or neglect on the part of the utility customer shall notify the City's Public Works Department in writing setting forth the facts and circumstances surrounding the loss.

The Public Works Department shall do an investigation and make a determination on whether the utility customer is due an adjustment on his utility bill and the amount of said adjustment, if any, or whether no adjustment is due the utility customer. Minimum payments need to continue while adjustment is being investigated. The City shall then notify the customer in writing of said determination. If an adjustment is due the utility customer, said adjustment will be reflected on the utility customer's next available normal billing cycle.

For water leaks wherein that water does not return to the sewer, the Public Works Director or his designee may estimate the quantity and make the appropriate fee adjustment.

The utility customer may appeal the adjustment determination. A notice of appeal shall be made in writing to the City Clerk describing the basis for the appeal not more than ten (10) days after notice to the utility customer of the determination for which forms the basis for the appeal. Thereafter, an appeal meeting shall be scheduled by the City Clerk within twenty (20) business days. The appeal board shall consist of the City Manager,

City Clerk, and Public Works Director. Minimum payments shall be required to continue while adjustment requests are being investigated or water service will be shut off.

#### **13.04.230 Miscellaneous Control Devices.**

The city reserves the right to require any customer to install as a condition of water service a pressure reducing valve, backflow prevention device, pressure relief valve, booster pump with pressure tank or similar devices, at any location where the Public Works Director determines a need to protect the city's facilities.

#### **13.04.260 Turn On—Without Permission Unlawful.**

It is unlawful for any person, except duly authorized employees of the city, to turn on the water supply to any premises after a turn off is made at the meter by the city. The water service pipe to any premises turned on by an unauthorized person after such water supply has been turned off by the city for cause may, upon discovery, be disconnected by the city from the water main in the street and shall not be connected again until violations of these rules and regulations have been corrected and all expenses incurred by the city relating to meter tampering, disconnecting and reconnecting the service pipe are paid.

#### **13.04.270 Turn Off, Turn On—Liability Disclaimer.**

The city shall not be liable for any damage to person or property that may result from the turn off or turn on of the water service from the service being left on when the premises may be unoccupied.

#### **13.04.280 Driveway or Crossing Construction—Connection Removal.**

Whenever a driveway or crossing to be used for vehicular traffic is constructed within that portion of a city street lying between the curb line and the property line, the public works department shall cause the removal and relocation of any water service connection or any part thereof which may be within the boundaries of the such driveway or crossing. The cost of removal, relocation and maintenance of water service connection as provided in this section shall be charged against the property for which driveway or crossing was constructed and to the owner thereof.

#### **13.04.290 Private Construction Work in Streets and Alleys.**

All persons, firms, corporations and governmental agencies, and their contractors, performing street and alley work that may interfere, conflict, affect or endanger the water system of the city shall apply to the public works director for a right-of-way permit at least two working days in advance of commencing the work.

#### **13.04.300 Standby Fire Protection.**

A. Any customer using city water for all purposes shall be entitled to a separate standby fire protection service, and be required to install a fire protection meter. The monthly charge for such standby fire protection service shall be as provided by city ordinance. Such standby fire protection charges and fire line standby charges are based

upon the size of the customer's connection to the main, and are not based on any specific pressures or volume of water furnished to the customer.

B. Where fire service is provided, no charge shall be made for water used in extinguishing fires of incendiary or accidental origin; provided, Cowlitz 2 Fire and Rescue gives notice within ten working days from the time of such fire that a fire occurred. Otherwise, all water used shall be charged for at the rate provided in the Current Rate Ordinance as adopted or hereafter amended.

#### **13.04.310 Misuse of Fire Protection Water.**

Whenever water from the city's supply is available on a premises for fire protection only and is used without permit for purposes other than extinguishing fires of incendiary or accidental origin, twelve times the monthly service charge stated in the Current Rate Ordinance, as adopted or hereafter amended, shall be charge for each incident.

#### **13.04.320 Fire Protection Meters.**

A. Service of more than one per premises by a fire service shall not be permitted. All water service connection used for fire protection shall be installed in a manner as approved by the department of Public Works, Cowlitz 2 Fire and Rescue, and the State Fire Marshal, and metered at the expense of the owner of the premises as follows:

1. Double check detector assemblies or fireline check meters of size and type approved by the city shall be permitted on straight automatic fire sprinkler services which may include hose racks inside the building for firefighting purposes only. All water registered by the bypass meter shall be billed at the rate provided by city enactment, unless caused by fire as reported within ten days. Unauthorized use of water through a detector check meter shall be cause for installation of a fireline meter at the expense of the owner or agent.
2. Double check detector assemblies or fireline meters of a size and type approved by the department shall be installed on all fire services where hydrants, outside hose outlets or connection allowing the use of water for other purposes than the extinguishing of fires exist.
3. Must comply with all provision of Standby Fire Protection as per 13.04.300.
4. Delinquency in payment of expense for fire protection service or failure of the owner or occupant to make changes in meter installations as provided in this chapter after reasonable notice from the department shall be sufficient cause of discontinuance of fire service to the premises. Fire protection systems shall be installed and maintained by the owner in a manner approved by the department as to prevent backflow into the city's system.

B. All existing services used for fire protection shall be either metered or be provided with a sealed valve or as otherwise provided in the KEDM. All future fire service connections shall be installed in similar manner. In no case shall any tap be made upon any pipe used for fire purposes nor tank connected therewith, nor shall the use of any water be permitted through any un-metered fire service nor through any pipes, tank or fixtures therewith connected for any purpose other than the extinguishing of fire on the premises, except that these fire services may be tested occasionally. The Public Works Department must be notified in advance of and a permit obtained for such



test. For any violation of this provision the Public Works Department may charge the minimum rate for the size of service or cut off the service.

C. All structures and buildings with automatic sprinkler systems connected to the City mains shall pay to the Public Works Department for service at the rates established in the Current Rate Ordinance, as adopted or hereafter amended. No water for any purpose except fire protection shall be drawn from any service leading to such sprinkler system without the knowledge and permission of the Public Works Department and a plat or map of such system must be filed with the Public Works Department and notations made thereon of any and all connections from which water may be drawn for any other purpose. Notice must be given the Public Works Department at least 48 hours in advance of any test to be made of such sprinkler system and the hour of such test to be set within that time by the Public Works Department.

D. No charge will be made for water used in extinguishing fire or testing out the services, if the owner or occupant of the premises where such fire or testing occur gives notice to the Public Works Department.

#### **13.04.330 Hydrants—Authorized Use.**

No person other than authorized employees of the city shall operate fire hydrants and hose outlets unless a use permit has been issued by the city. A water meter shall be used by permittee to determine the amount of water usage in order to constitute an authorized use.

Any unauthorized or non permitted person using, tampering or causing damage to any fire hydrant belonging to the city shall be liable to the city for any and all damages resulting either directly or indirectly there from. Additionally, a fine of One Thousand dollars (\$1000.00) will be assessed as a penalty as allowed by KMC 13.04.460

#### **13.04.340 Hydrants—Temporary Use.**

Persons desiring water service from a fire hydrant or hose connection shall make application therefore to the city and make arrangements therefore as provided in this chapter. Year-round use may be allowed of the hydrant meter upon prior written approval by the public works director. The daily meter charge may be waived for those approved for year-round use by the public works director.

#### **13.04.350 Billing—Private Water Systems.**

The total amount of water usage registered on the water meter shall be in accordance with the agreement authorizing service.

#### **13.04.355 Schedule of Charges.**

Bimonthly charges for the consumption of water shall include a fixed bimonthly demand charge based upon the size of the meter serving the dwelling, structure or use in question, together with a consumption charge for water consumed and shall be established by the current rate ordinance as adopted or hereafter amended.

#### **13.04.360 Intentionally deleted.**

#### **13.04.370 Deposits—Change of Address—Delinquency.**

Failure to receive mail will not be recognized as a valid excuse for failure to pay charges due. Notice of change in ownership of property and change in mailing address must be given in writing by the property owner or his agent to the city. As per KMC 13.04.050, the director of public works may require an advance or satisfactory security for all water to be furnished by meter, and if such payment is not made or security furnished within the time fixed by the city, water shall be shut off from the premises. The owners of those addresses that had Kelso utility liens in the past two (2) year period shall pay a deposit equal to the maximum allowed under KMC 13.04.050 prior to entering into a new rental agreement.

#### **13.04.380 Delinquency—Assessment of Liens.**

A. All water rates shall be charged against the premises for which the service was installed. The City shall have a lien against the premises to which the services were furnished for four months water charges due or to become due, but not for any charges more than four months past due; provided however, that if the owner of the premises or the owner of the delinquent mortgage thereon gives the City written notice to cut off service to the premises and makes payment of all delinquent and unpaid charges, then the City shall have no lien for service thereafter furnished. Enforcement and collection of a lien shall include, but not be limited to, the right to stop service and deny service thereafter to any and all owners and/or occupants of the premises until the charges for service and/or other charges have been paid in full, except as provided in this section. Such lien shall include the delinquent charges and such other costs incurred by the city.

B. The city will only terminate or refuse to provide or reinstate water service to a residential tenant occupying a rented dwelling when the water bill was incurred by a current occupant. When a rented dwelling is occupied by a tenant who has opened an account in his/her own name, no termination, no threat of termination or refusal to provide or reinstate water service will occur because of the nonpayment of a bill for water utility services if the bill is the obligation of the tenants' landlord as indicated in the written lease agreement provided, however, that the term "threat of termination" shall not include the notices authorized by this section or policy of the city.

C. When a rented dwelling for which a delinquent water bill is owed is occupied by a tenant, but the utility account is in the landlord's name, no termination will occur unless the tenant is first provided an opportunity to place the account in his or her own name without incurring any liability for the landlord's delinquent bill. When a rented dwelling for which a water bill is owed is occupied by a tenant and the delinquent bill was in the name of, and incurred by, a prior tenant no longer occupying the dwelling, no termination or refusal to provide or reinstate water service will occur until the current tenant is first provided the opportunity to have the account placed in his or her own name without liability for the delinquent bill. The current tenant must make application in person at the city's finance department during normal office hours to complete any forms required by the finance department in order to place service in his/her name.

D. If service is terminated before the tenant has exercised the right provided for in the preceding section to have the account placed in his or her own name, the tenant can have water restored without liability for the delinquent bill by applying to place the account in his or her own name for future service, as provided by this section, and by paying the usual service call fees.

E. The city finance department will not take any action which encourages or permits, whether by regulation, informal policy or oral statement, the termination of water

services to residential tenants occupying single family units or individually metered multifamily units because a prior occupant of the residence owes an unpaid bill or where the tenant's landlord has contracted for water service to the dwelling and the occupant is delinquent, unless the following procedures are complied with:

1. If a payment on a water utility account has not been received by the twenty-fifth day after the bill mailing date, the finance department will mail a shut-off and final notice for payment to the service address, and to the address (if any) listed in the department's file. This notice will advise that payment is past due and will alert interested parties that service will be terminated after seven business days from the date the notice was mailed unless payment is personally received at the city or arrangements acceptable to the city have been made. A statement describing "tenants' rights" as provided herein will be enclosed or printed on the back of the shut-off notice and will be referred to on the face of the shut-off notice;
2. If payment on a water utility account has not been received by the seventh day at 5 p.m. after the mailing of the shut off final notice, the water service may be terminated after 12 p.m. the following business day in accordance with this Chapter. If the water is disconnected for non-payment, a service call fee will be charged. If customer's check is returned as a NSF, it will be treated as having not received a payment and service will be immediately terminated if delinquent, without further notice.
3. A statement of tenant's rights included with the shut-off notice shall be substantially in the following form:

#### **NOTICE OF TENANT'S RIGHTS**

If you are a tenant residing at the service address and water is presently being delivered to your home: You are not responsible for water bills incurred by a previous tenant who moved out before you moved in and you also are not responsible for water and sewer utility bills that are your landlord's responsibility.

If this bill is the obligation of a prior tenant or your landlord, you have the right to obtain continued water services by contacting the Finance Department and having the account placed in your name. If you do place the account in your own name, services will not be disconnected because of an unpaid bill for which you are not responsible. You will only be responsible for future bills coming due during your tenancy.

To place service in your own name you must go the City Finance Department, and make application in Person for continued service during normal work hours (8 to 5). You will be required to present personal identification and your current written rental agreement. You also will be required to identify your landlord and his current address.

If service is disconnected before you have contacted the Finance Department, you can have the service turned back on if you place the account in your name. However, a service call fee will be charged before service is restored. If you do put the account in your name, you will only be responsible for future bills.

You have the right to appeal the decision of the Finance Department relating to responsibility for past due utility bills or the right to have service placed in your own name. Utility service will not be disconnected during the appeal process.

F. If a tenant elects to contract for future water service under the preceding sections he or she must agree to pay appropriate deposit fees, service call fees if service has been terminated before the tenant has exercised the right to have the account placed in his or her name, and all future utility bills coming due during his or her occupancy of the premises. Application must be made in person at the Finance Department during normal working hours (8:00 a.m. to 5:00 p.m.).

G. In the event more than one apartment unit is served by a single meter, one of the tenants shall be required to put the account in their name and assume payment responsibility for the utility bill in order to keep the service from being shut off, or to get service restored. All notices required by preceding sections will also give notice of the City's customer appeal process. A tenant may request a hearing under this customer appeal process if the tenant has a dispute with the city regarding the application of this section. A notice of said appeal shall be made in writing to the city clerk describing the basis for the appeal no more than ten days after the person is aware of the matter which forms the basis for the appeal. Thereafter, an appeal meeting shall be scheduled by the city clerk within twenty business days. The appeal board shall consist of the city manager, city clerk and public works director.

H. Nothing set forth herein shall be construed to limit the city's rights to proceed either by judicial process or by the remedies prescribed by RCW 35.21.290 and 35.21.300 to the extent that such actions do not interfere with tenant's rights as provided herein. A "tenant" is any person who is entitled to occupy a dwelling unit primarily for living or dwelling purposes under a rental agreement.

I. In cases where the occupant of the premises moves to another location and applies for water at the new location, services may be denied at such location until and unless any statement for service against the first location is fully paid.

J. If any such charges are not paid, the city may record a lien at the office of the county auditor against the property for which the service was installed.

#### **13.04.390 Disconnection of Service—Condemned Building.**

Whenever a premises supplied with water has been found by the proper authorities to be dangerous to human life and unfit for human habitation, and notice of such findings has been provided to the public works director by the authorities, the public works director shall cause the water service to such premises to be turned off. Water service to such premises shall not be turned on until the owner and/or agent has secured a release or clearance from the proper authorities.

#### **13.04.395 Discontinued Use.**

All water rates are chargeable against the property. Payments made by tenants or agents will be credited to the property, which will be held for the rate charges while water is left turned on. Whenever it is desired to discontinue the use of water supplied to the premises, notice in writing must be given and payment of all arrearages, if any, must be made at the office of the City. The water will then be turned off, and will be turned on only upon application to be made at the office of the City and the payment of the service charge. Notice must be given in writing by owners or agents when buildings are vacated as no allowance under claims of vacancy will be made unless the City is properly notified and the water shut off. The City may discontinue the supply of water to the property until all charges against the property are paid, pursuant to KMC 13.04.380.

To discontinue use, the customer (or owner in the case of a premises abandoned by the tenant) must provide notice to the City of discontinuance. Such notice must be in person at the finance office for the city. Charges for water service shall be made up to and including the day the notice is received by the City. "

#### **13.04.400 Emergency Interruption of Service.**

In the event of emergency or whenever the public health, safety or the equitable distribution of water so demands, the director of public works may authorize the city to change, reduce or limit the time for or temporarily discontinue the use of water. Water service may be temporarily interrupted for purposes of making repairs, extensions or doing other necessary work. Before so changing, reducing, limiting or interrupting the use of water, the city shall notify, insofar as practicable, all water consumers affected. The city shall not be responsible for any damage resulting from interruption, change or failure of the water supply. In addition, the city makes no commitment as to the volume of water available, pressure, or continuity of service; and will not be liable for injuries or damage due to insufficient volumes, inadequate pressure or interruption of services.

#### **13.04.410 Service Calls.**

A. Service calls, for any reason, including but not limited to, convenience or emergency turn off or turn on, paid delinquent account turn on, or complaint leaks, or other problems due to trouble in lines not owned by the city, or problems in lines, valves, meters owned by the city, caused by problems or conditions other than by the city, shall be charged to the customer requesting the service call at the rate set by ordinance. The amount charged for the service call shall be billed to the customer as an additional charge and shall be due and payable within fourteen days after the date of the bill. Section 13.04.380 of this chapter shall apply when any service call charges become delinquent and unpaid.

B. Service calls, when it is determined by the city that the problem or trouble is in lines, valves, meters or facilities owned by the city, will result in no charge to the customer.

#### **13.04.420 Inspections.**

The public works department shall conduct inspections of the water system in coordination with the appropriate health department. The Public Works Director shall, from time to time, suggest rules and regulations deemed necessary by him to the city council to protect the municipal fresh water supply from pollution.

#### **13.04.430 Access for Inspection.**

Authorized employees of the city, properly identified, shall have access at reasonable times of the day to all parts of the premises or within buildings thereon to which water is supplied from city mains, for the purpose of checking conformity to these regulations; provided, such employees shall have access to single-family residential premises only upon a showing of probable cause to believe that the water service or plumbing therein is not in conformity with these regulations. Whenever the owner or occupant of any premises supplied by city water restrains authorized city employees from making such necessary inspections, water service may be refused or discontinued.

#### **13.04.440 Tampering or Interfering with System Unlawful.**

No person shall disturb, break, deface, damage or trespass upon any property belonging to or connected with the water system of the city in any manner whatsoever. No person shall store, maintain or keep any goods, merchandise, materials or rubbish within a distance of five feet or to interfere with the access or operation of any water meter, gate valve, fire hydrant or any other appurtenances in use on any water service, connection or water main. Violators will be charged a fee at the rate provided in the Current Rate Ordinance as adopted or hereafter amended.

#### **13.04.450 Damaging Water System—Liability.**

Any person causing damage to any property of the water utility belonging to the city shall be liable to the city for any and all damages resulting either directly or indirectly there from.

#### **13.04.460 Violation—Penalty.**

Any person willfully violating any of the provisions of this chapter shall be guilty of a misdemeanor. Any person found guilty of such violation shall be fined a sum not to exceed one thousand dollars (\$1,000.00).

#### **13.04.470 Constitutionality and Saving Clause.**

If any provision, section, sentence, clause or phrase of this chapter, or the application of same to any person or set of circumstances, are for any reason held to be unconstitutional, void, invalid, or for any reason unenforceable, the validity of the remaining portions of this chapter or its application to other persons or circumstances shall not be affected thereby, it being the intent of the city council of the city of Kelso in adopting, and the mayor in approving, this chapter that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality or invalidity of any other portion, provision, or regulation.

**SECTION 3.** Continuity. This ordinance supersedes and repeals all existing ordinances and amendments thereof relating to Kelso Municipal Code 13.04 Water System, but shall not be construed or in any way interpreted to nullify, affect, or invalidate any rate collections or enforcement actions related to amounts due or actions taken under the provisions of KMC 13.04 prior to the effective date of this ordinance. The provisions of this ordinance, insofar as they are the same as the ordinance provisions previously adopted by the City shall be construed as restatements and continuations, and not as new enactments.

**SECTION 4.** This Ordinance shall be in full force and effect ninety days after its passage and publication of summary as required by law.

**ADOPTED** by the City Council and **SIGNED** by the Mayor this 20<sup>th</sup> day of

July, 2010.

W. J. F. F. F.  
MAYOR

ATTEST/AUTHENTICATION:

Brian F. F.  
CITY CLERK

APPROVED AS TO FORM:

James P. P.  
CITY ATTORNEY

PUBLISHED: 7/24/10